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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/740,375

12/19/2000

Samuel N. Zellner

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02/06/2006

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
BELLSOUTH I.P. CORP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/740,375	ZELLNER ET AL.	
	Examiner	Art Unit	
	Arthur Duran	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 31-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 21-30 have been examined.

Response to Amendment

2. The Amendment filed on 1/19/06 is sufficient to overcome the prior rejection. A new reference has been utilized in the 35 USC 103 rejection.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/30/05 has been entered.

Election/Restrictions

4. Applicant's election of claims 21-30 in the reply filed on 1/19/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey (2002/0102993).

Claim 21, 26:

Hendrey discloses:

Sending first information about a location of the user to a content provider that provides web content to the wireless communication device (Fig. 1; Fig. 2; Paragraphs [5, 53])

Sending an indication to the content provider when the location is continuously changing (Fig. 1; [38, 41]);

Searching a database of location specific advertisements and selecting a location specific advertisement relevant to the user (Fig. 1; [32, 33, 34]),

tracking a first one of a plurality of location-specific advertisements that is associated with the location of the user and tracking that the user is at a stable location that is not continuously changing ([45, 47, 48]).

Hendrey does not explicitly disclose that the advertisements are sent when the user's location is stable. However, Hendrey discloses tracking the user being both moving and stable (see above citations), that particular indications concerning advertisements can be made when the user's location is

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stable at certain areas ([47]), that the various features and embodiments of the Hendrey disclosure can be utilized for targeting advertisements ([53]), that there are many variations and factors for targeting a user ([32, 33, 34, 58]) and that there are many possible variations of the Hendrey disclosure ([66]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the information in Hendrey's Fig. 1, including whether the user is moving or the location is stable, can be utilized for targeting the user. One would have been motivated to do this in order to better target the user with items of interest.

In regards to claim 26, Hendrey further discloses utilizing a variety of position determining methods or technologies and also that user location information can be sent periodically ([44, 47]). Notice that the location is monitored over a period of time. Hence, the location is not continually monitored but monitored at different periods in time and, hence, periodically. Also, the utilization of different location determining methods or technologies allows to Hendrey to continually monitor location information, monitor location with very short (seconds or microseconds) periodical feedback of user location, or with longer periodical feedback of user location.

6. Claims 22-25, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey (2002/0102993) in view of Goldhaber (5,794,210).

Claim 22, 23, 27-30:

Hendrey further discloses targeting users based parameters, filters, preferences, and profiles ([32, 35, 37]) and hiding certain information about users ([3]).

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Hendrey does not explicitly disclose not transmitting an indication of the identity of the user.

Goldhaber further discloses targeting users with content based on geographic areas (col 2, lines 27-35; col 15, lines 15-21) and that user geographic area information is known (col 13, lines 5-11).

Goldhaber discloses profiling a user, targeting content or advertising to a user based on known user information, maintaining user privacy, that user's can release user identifying information if the user so chooses (Abstract, second half; col 6, lines 22-45; col 7, lines 61-67; col 14, lines 10-17).

Goldhaber further discloses obtaining second information about the identity of the user for a fee (col 6, line 64-col 7, line 5; col 17, lines 20-26; col 14, lines 7-10).

Goldhaber further discloses the user indicating preferences for content to be received (Fig. 7; Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's user being able to control the user's profile to Hendrey's targeting a user based on a user profile. One would have been motivated to do this in order to better send content of interest to the user.

Claims 24, 25:

In regards to claims 24, 25, Hendrey discloses that the user can be tracked as to being home or at work and that this indicates information relative to advertisements ([47]) and that the user can be targeted based on profile or preference or other information (see citations in preceding claims).

Hendrey does not explicitly disclose that the user can indicated geographic areas to receive or not receive content.

However, Goldhaber discloses that the user can indicate a criteria that is to be utilized for delivering content and/or a criteria that is to be used to prevent certain content from being delivered (Fig. 10, item 124; col 6, lines 45-61). Notice that the profile includes items to send and/or not to send and that the user can edit the profile at any time and in any manner.

Goldhaber further discloses that different servers can serve different geographic areas as well as a variety of other interest areas (col 15, lines 17-31) and that the user can indicate as interested or not interested the different interest areas of the different servers (Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's indicating whether to receive content or not based on different criteria and geographic area as a criteria to Hendrey's particular location relative advertisements and targeting a user based on a variety of criteria. One would have been motivated to do this in order to better present content of interest to the user.

Response to Arguments

7. Applicant's arguments with respect to claims 21-30 have been considered but are moot in grounds of the new rejection.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are

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given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Arthur Duran', with a stylized, cursive script.

Arthur Duran
Primary Examiner
1/31/2006